

**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS
Honolulu, Hawaii**

180-Day Exp. Date: December 22, 2007

October 26, 2007

**Board of Land and
Natural Resources
State of Hawaii
Honolulu, Hawaii**

REGARDING: Conservation District Use Application (CDUA) OA-3425
for a Barn & Paddocks and Landscaping

APPLICANT: Gerald Park for
James & Lisa Hogg

LANDOWNER: Aloha Self Storage LLC.

LOCATION: Kaneohe, Koolaupoko, Island of Oahu

TMKs: (1) 4-5-042:008
/AREA approximately (\approx) 9.051 acres

USE: \approx 103,377 square feet

SUBZONE: General

DESCRIPTION OF AREA AND CURRENT USE

The subject area exists on the windward side of Oahu near the Kailua boundary of Kaneohe. To the north is a deep gulch on private land containing a single-family dwelling, to the east is Kionaole Road with the H3 beyond, to the south there is a Hawaiian Electric Company transformer station, to the west is the continuation of the gulch and a section of Hoomaluhia Botanical Garden (**Exhibit 1, 2 & 3**). Under Conservation District Use Permit OA-3159, a Single Family Residence and Accessory structures exists on the subject parcel.

Water, electrical power and communication systems are connected to the existing SFR. An individual wastewater treatment system consisting of a septic tank and leach field exists on the property. Access is via Kionaole Road.

The subject property is not located in a densely populated area. A residence to the north is located ≈ 250 feet from the proposed barn. The nearest subdivision is located to the north/northwest. The nearest houselot in the Hale Kou Waikaluakai Homestead Subdivision is located ≈ 350 -400 feet from the barn. The subdivision is separated from the property by a densely forested deep gulch and sloping terrain, thick vegetation and high trees.

The land consists of an upper, relatively flat area adjacent to a Hawaiian Electric substation and steeper slopes on the east through north to west sides. There are shallow but broad swales and flat land between the swales. Flora and fauna are predominately-introduced species. The area of the proposed barn and turnout is covered with Bermuda grass and appears as a well maintained lawn and open space (**Exhibit 4 & 5**). Isolated java plum trees and hau trees provide shaded spots. Java plum, brassia, California grass, Hilo grass, sensitive plant, indigo, and wedelia grow profusely where the larger paddock is proposed. No rare, threatened or endangered plant or animal species or significant habitats are known to exist on the subject property. There are no known archaeological or cultural resources in the project area.

PROPOSED USE

The applicants are proposing to construct a 1700 ft² barn and to clear two paddocks $\approx 14,557$ ft² and 87,120 ft². In addition, the applicants are also proposing to clear hau trees adjacent to the existing permitted Single Family Residence (SFR) for firebreak purposes.

The applicant proposes to stable up to two horses on the property. The 1700-ft² barn is proposed on relatively flat terrain. Interior space in the barn is allocated for two 158-ft² stalls, a 111-ft² aisle between the stalls, a 844-ft² equipment and feed room, a 357-ft² tack room and a 70-ft² wash room. The barn shall be erected on a poured in place concrete floor and framed with wood. The exterior shall be finished with natural or earth toned wood siding and topped with a hip roof covered with shingle roofing. Sections of the exterior shall be finished with a moss rock veneer for architectural interest. The finished structure shall stand 17'3" in height. The barn is proposed to be set back ≈ 200 feet from Kionaole Street and should not be readily visible to passersby (**Exhibit 6, 7 & 8**).

The applicants propose to set aside two areas for paddock and pasture use: an $\approx 14,560$ -ft² area between the proposed barn and Kionaole Road that shall be utilized for training and exercising the animals; and a second area of $\approx 87,120$ -ft² to the west of the proposed barn for pasture. The second area shall be cleared of scrub trees and noxious weeds and then seeded with pasture grass such as Kikuyu, Bermuda, or El Toro for grazing and erosion control as some portions of this area contains barren ground with exposed soil. To minimize erosion, bare spots shall be reseeded with pasture grass and the animals would be rotated to allow pasture grass to regenerate.

Both paddocks shall be enclosed with a 5.5' high wooden fence. The posts shall be set ≈ 12 -feet apart and have four runs of 1"x 6" boards. In addition, a 5-6 foot high chain link fence about 80-feet in length is proposed along the Kionaole Road side of the property to

prevent trespassing for the safety of the horses. The chain link fence shall be set back 10-feet from the paddock fencing.

A Horse Management Plan was included with the CDUA. Animal waste and soiled bedding shall be collected and deposited in an enclosed 2-cubic yard dumpster located on premise. The dumpster shall be collected at least once a week and its contents shall be emptied at an authorized off-site disposal. Periodic barn washing discharge shall follow Department of Health guidelines.

SUMMARY OF COMMENTS

The application was referred to the following agencies for their review and comment-the State: Department of Land and Natural Resources Divisions of: Conservation & Resource Enforcement, Engineering, Forestry & Wildlife, Oahu District Land Office and Historic Preservation; the Department of Health, the Office of Hawaiian Affairs, the Office of Environmental Quality Control; the City Department of Planning; and the Kaneohe & Kailua Neighborhood Board. In addition, the CDUA was also sent to the nearest public library the Kaneohe & Kailua State Library to make this information readily available to those who may wish to review it.

Comments were received by the following agencies and summarized by Staff as follows:

STATE OF HAWAII

DEPARTMENT OF LAND AND NATURAL RESOURCES

CONSERVATION AND RESOURCE ENFORCEMENT

No comments

ENGINEERING DIVISION

The Flood Zone Designation for the project site according to the Flood Insurance Rate Map (FIRM) is Zone D. The National Flood Insurance Program Does not have any regulations for developments within Zone D.

Applicant's Response

The Flood Zone Designation for the project site is Zone D. The Environmental Assessment shall note the Zone D designation.

FORESTRY AND WILDLIFE

No comments

OAHU DISTRICT LAND OFFICE

No comments

DEPARTMENT OF HEALTH

WASTEWATER BRANCH

The proposal to collect and dispose of animal wastes by means of a private disposal company is acceptable to the Department. Treatment and disposal of wastewater generated from washing or cleaning the barn are not fully addressed but we have no objections to the development provided that wastewater and animal manure is handled by following best management practices outlined in the Department of Health's Guidelines for Livestock Waste Management. All wastewater plans must meet Department's Rules, HAR Chapter 11-62, "Wastewater System's."

GENERAL

Review all of the Standard Comments on our website. Adhere to any specifically applicable standard comment to this application.

Applicant's response

Wastewater and animal manure will be handled following best management practices outlined in the Department of Health's guidelines for Livestock Waste Management.

The on-site individual wastewater system was approved for domestic wastewater, wash water from the barn will not be discharged into the system. The Applicant shall consult with stable operators and other horse owners to identify practical methods for disposing of wash water from the barn. One alternative would be to set aside an area outside the barn where wash water can collect and evaporate or percolate into the ground.

CITY AND COUNTY OF HONOLULU

DEPARTMENT OF PLANNING AND PERMITTING

No objections to the proposed firebreak for the protection of the existing SFR and any accessory structures. We would not be opposed to the proposal to add a barn and paddocks if they are accessory to the existing SFR and do not affect lands that meet the criteria of §2.2.7.4 of the Koolau-poko Sustainable Communities Plan. That states "The Preservation Boundary is established to protect undeveloped lands that are not valued primarily for agriculture but which form an important part of the region's open space fabric. Such lands include important wildlife habitat, archaeological or historic sites, significant landforms or landscapes over which significant views are available, and development-related hazard areas. They exclude such features, sites or areas that are

located within the Urban Community, Rural Community or Agriculture boundaries.” The subject property is within this Preservation Boundary.

Applicant's Response

The barn and paddock areas are accessory structures to the existing residential dwelling on the subject property and the proposed activity shall be accessory to the existing residential use.

ANALYSIS

After reviewing the application, by correspondence dated June 25, 2007, the Department has found that:

1. The proposed use is an identified land use in the General subzone of the Conservation District, pursuant to §13-5-3, Hawaii Administrative Rules (HAR), L-1 Agriculture defined as animal husbandry within an area of more than one acre. Please be advised, however, that this finding does not constitute approval of the proposal;
2. Pursuant to §13-5-40 of the HAR, a Public Hearing will not be required;
3. In conformance with Chapter 343, Hawaii Revised Statutes (HRS), as amended, and Chapter 11-200, HAR, a finding of no significant impact to the environment (FONSI) is anticipated for the proposed project;
4. The proposed project is not within the Special Management Area.

Notice of this CDUA and draft Environmental Assessment (EA) was published in the July 8, 2007 Environmental Notice. A Finding of No Significant Impact was published in the September 23, 2007 Environmental Notice.

CONSERVATION CRITERIA

The following discussion evaluates the merits of the proposed land use by applying the criteria established in Section 13-5-30, HAR.

1. *The proposed land use is consistent with the purpose of the Conservation District.*

The objective of the Conservation District is to conserve, protect and preserve the important natural resources of the State through appropriate management and use to promote their long-term sustainability and the public health, safety, and welfare.

The project is considered an identified land use in the subject area of the Conservation District; as such, it is subject to the regulatory process established in

Chapter 183C, HRS and detailed further in Chapter 13-5, HAR. This process provides for the application of appropriate management tools to protect the relevant resources, including objective analysis and thoughtful decision-making by the Department and Board of Land and Natural Resources.

2. *The proposed land use is consistent with the objectives of the subzone of the land on which the use will occur.*

The objective of the General subzone is to designate open space where specific conservation uses may not be defined, but where urban use would be premature. The proposal shall maintain the open space character of the area.

3. *The proposed land use complies with provisions and guidelines contained in Chapter 205A, HRS, entitled "Coastal Zone Management," where applicable.*

The subject area does not lie within the Special Management Area. Staff believes the subject proposal complies with provisions and guidelines contained in Chapter 205A, HRS, entitled "Coastal Zone Management."

4. *The proposed land use will not cause substantial adverse impacts to existing natural resources within the surrounding area, community, or region.*

Staff believes the proposed land use will not cause substantial adverse impacts to existing natural resources within the surrounding area, community or region. There are no running streams through the property and the property is fairly isolated. The vicinity has been already impacted with the electric transformer and the H3.

5. *The proposed land use, including buildings, structures and facilities, shall be compatible with the locality and surrounding area, appropriate to the physical conditions and capabilities of the specific parcel or parcels.*

Staff believes the applicant shall take adequate measures to insure compatibility with the locality and surrounding area. The proposed barn's exterior shall be finished with natural or earth toned wood siding. The improvements are sited on the opposite portion of the property from the only neighboring property thereby lessening impacts, if any and access is readily available for the proposed horse maintenance.

6. *The existing physical and environmental aspect of the land, such as natural beauty and open space characteristics, will be preserved or improved upon, which ever is applicable.*

The land will be improved with the removal of undesirable plant growth and noxious weeds. The proposed barn shall not be plainly visible from adjoining properties and passersby, as the lot is higher in elevation than Kionaole Road.

Native trees shall be planted fronting the paddock nearest Kionaole Road and shall screen the paddock and most of the barn from roadside views.

7. *Subdivision of the land will not be utilized to increase the intensity of land uses in the Conservation District.*

There will be no subdivision of land for this proposed project.

8. *The proposed land use will not be materially detrimental to the public health, safety and welfare.*

The implementation of the proposed land use adheres to public health regulations, Best Management Practices for drainage, dust, erosion, and sediment control and Building codes.

DISCUSSION

The proposed use shall provide shelter and the proper amenities for the care and maintenance of up to a maximum of two horses. The subject property is set away and far enough from other residences so the animals and maintenance of the animals should not have an impact on other residences. The applicant shall adhere to the Horse Management Plan.

The applicant also proposes to clear areas of scrub trees and noxious weeds and then seed with pasture grass such as Kikuyu, Bermuda, or El Toro for grazing and erosion control as some portions of this area contains barren ground with exposed soil. As the flora is predominately-introduced species, Staff has no objections to this proposal and the clearing of hau trees adjacent to the existing permitted Single Family Residence (SFR) for firebreak purposes.

RECOMMENDATION:

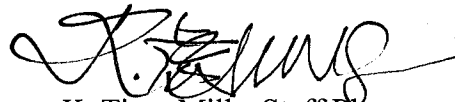
Based on the preceding analysis, staff recommends that the Board of Land and Natural Resources APPROVE this application for the described Barn & Paddocks and Landscaping located at Kaneohe, Oahu, TMK: (1) 4-5-042:008 subject to the following conditions:

1. The applicant shall comply with all applicable statutes, ordinances, rules, regulations, and conditions of the Federal, State, and County governments, and applicable parts of the Hawaii Administrative Rules, Chapter 13-5;
2. The applicant, its successors and assigns, shall indemnify and hold the State of Hawaii harmless from and against any loss, liability, claim or demand for property damage, personal injury or death arising out of any act or omission of the applicant, its successors, assigns, officers, employees, contractors and agents under this permit or relating to or connected with the granting of this permit;

3. The applicant shall adhere to the Horse Management Plan on file with this application;
4. The applicant shall comply with all applicable Department of Health administrative rules. Particular attention should be paid to Hawaii Administrative Rules (HAR) Section 11-60.1-33, "Fugitive Dust" and to Chapter 11-46, "Community Noise Control" if applicable;
5. Before proceeding with any work authorized by the Board, the applicant shall submit four (4) copies of the construction and grading plans and specifications to the Chairperson or his authorized representative for approval for consistency with the conditions of the permit and the declarations set forth in the permit application. Three (3) of the copies will be returned to the applicant. Plan approval by the Chairperson does not constitute approval required from other agencies;
6. Any work done or construction to be done on the land shall be initiated within one year of the approval of such use, in accordance with construction plans that have been signed by the Chairperson, and, unless otherwise authorized, shall be completed within three (3) years of the approval. The applicant shall notify the Department in writing when construction activity is initiated and when it is completed;
7. All representations relative to mitigation set forth in the accepted environmental assessment or impact statement for the proposed use are incorporated as conditions of the permit;
8. The applicant understands and agrees that this permit does not convey any vested rights or exclusive privilege;
9. In issuing this permit, the Department and Board have relied on the information and data that the applicant has provided in connection with this permit application. If, subsequent to the issuance of this permit, such information and data prove to be false, incomplete or inaccurate, this permit may be modified, suspended or revoked, in whole or in part, and/or the Department may, in addition, institute appropriate legal proceedings;
10. Where any interference, nuisance, or harm may be caused, or hazard established by the use, the applicant shall be required to take the measures to minimize or eliminate the interference, nuisance, harm, or hazard;
11. Cleared areas shall be revegetated within thirty (30) days unless otherwise provided for in a plan on file with and approved with the department;


12. Should historic remains such as artifacts, burials or concentration of charcoal be encountered during construction activities, work shall cease immediately in the vicinity of the find, and the find shall be protected from further damage. The contractor shall immediately contact HPD (692-8015), which will assess the significance of the find and recommend an appropriate mitigation measure, if necessary;
13. Other terms and conditions as may be prescribed by the Chairperson; and
14. Failure to comply with any of these conditions shall render this Conservation District Use Permit null and void.

Respectfully submitted,



K. Tiger Mills, Staff Planner
Office of Conservation and Coastal Lands

Approved for submittal:


for Laura H. Thielen, Chairperson
Board of Land and Natural Resources

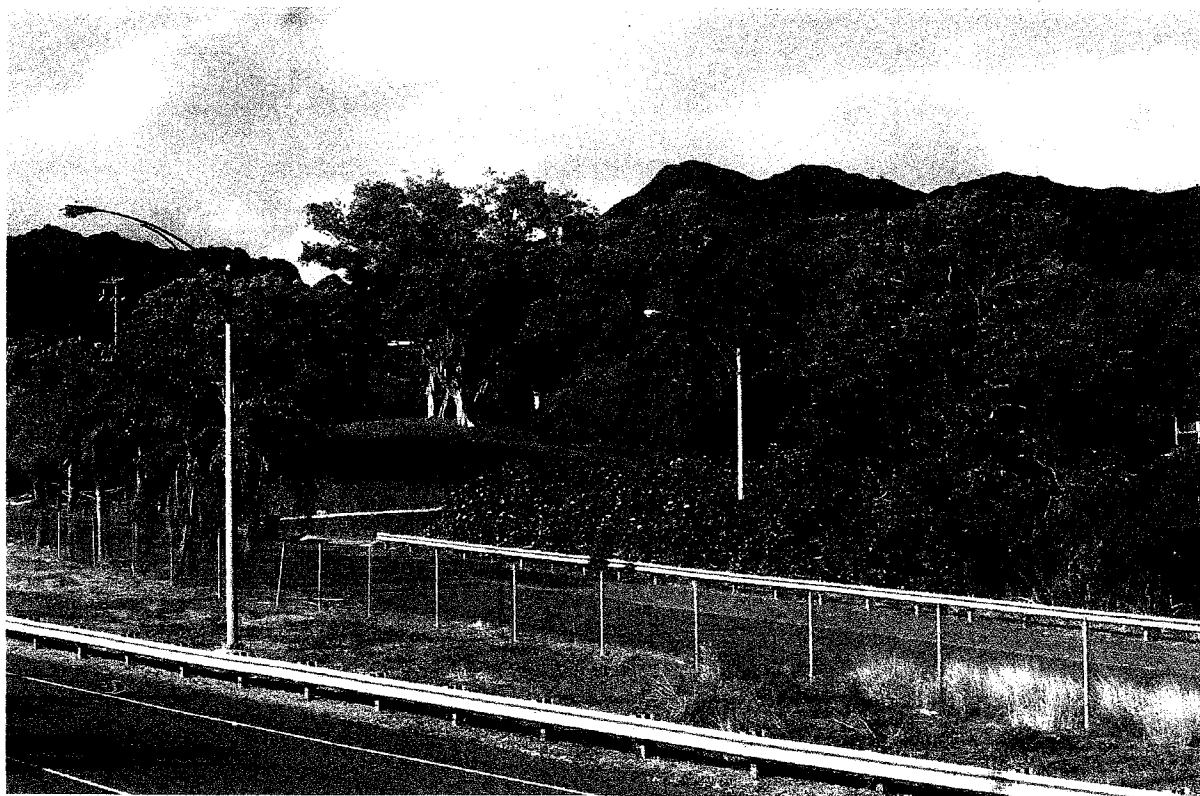


subject area

EXHIBIT 3



Photograph 3. Typical flatland in large paddock area.



Photograph 4. View of Hogg Property from Hale Kou Interchange On-ramp (Westbound).

EXHIBIT 4



Photograph 1. Site of Barn (right background) and "turnout" (foreground).



Photograph 2. Swale in large paddock area.

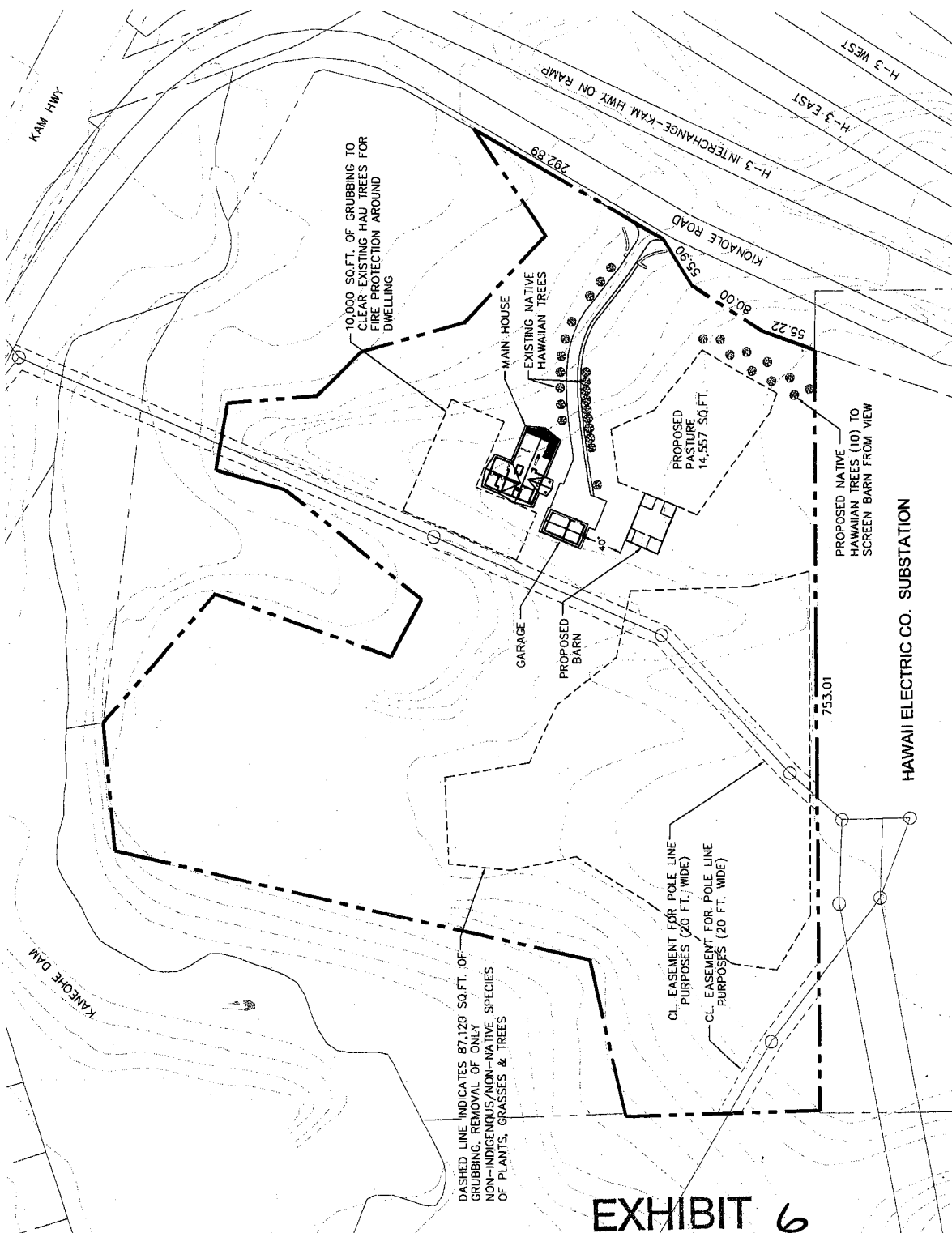


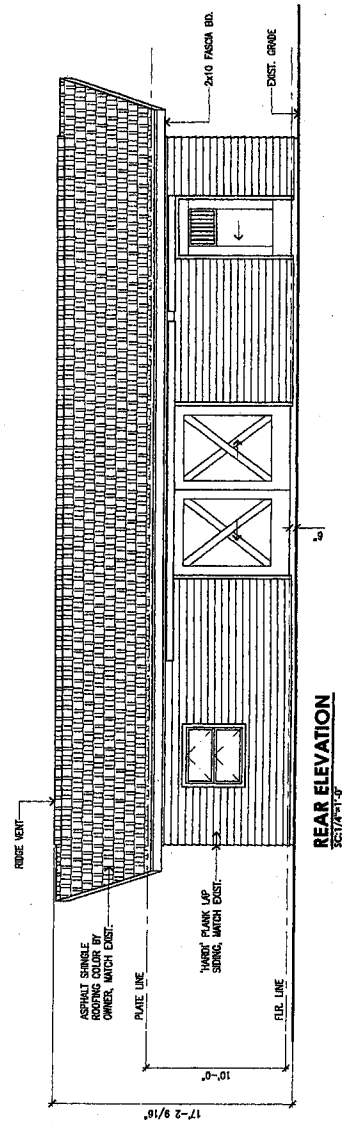
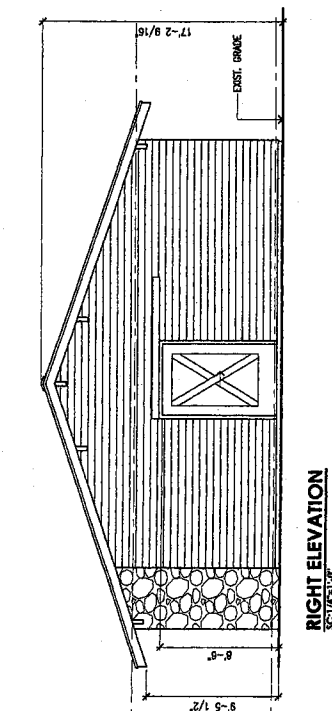
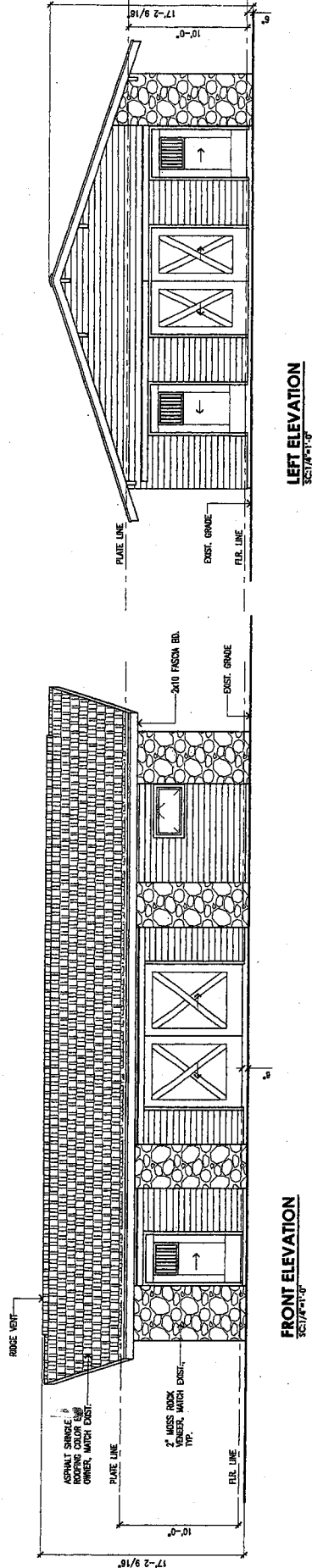
EXHIBIT 6

SITE PLAN

HAWAII ELECTRIC CO. SUBSTATION

Site Plan
Hogg Property Improvements





NEW HORSE BARN, ENCLOSED PEN, & SITE WORK FOR MR. & MRS. JIM HOGG					
SCALE	AS NOTED	TITLE	JKG	DRAWN BY:	
DATE	8/13/06		T.A.L.K.: 4-5-042: 008	REVISED:	
EXTERIOR ELEVATIONS					DATE OF REVISIONS

